



City of El Paso – City Plan Commission Staff Report

Case No: PZCR15-00005 (Related to Rezoning Application PZRZ15-00038)
Application Type Zoning Condition Release
CPC Hearing Date January 7, 2016
Staff Planner Jeff Howell, (915) 212-1607, howelljb@elpasotexas.gov

Location 4040 Hercules Avenue
Legal Description Lot 13 and part of Lot 14, Sunrise Acres No. 3, City of El Paso, El Paso County, Texas
Acreage 0.768 acres
Rep District 2
Existing Zoning: A-2/sc (Apartments/special contract)
Existing Use: Vacant
C/SC/SP/ZBA/LNC: Ordinance 4225 imposed Special Contract No. 96267
Request: Release of all conditions imposed by special contract dated June 23, 1969
Proposed Use: Commercial retail/low volume

Property Owner International Cutting Services, LTD
Representative Jason Horowitz

SURROUNDING ZONING AND LAND USE

North: R-4 (Residential) / Single-family dwellings
South: A-2/sc/sp (Apartments/special contract/special permit) / Apartments
East: C-1/sc/sp (Commercial/special contract/special permit) / Post Office
West: R-4 (Residential) / Church

THE PLAN FOR EL PASO DESIGNATION: G-3, Post-War (Northeast Planning Area)

NEAREST PARK: Sunrise Park (2,354 feet)

NEAREST SCHOOL: Park Elementary (2,384 feet)

NEIGHBORHOOD ASSOCIATIONS

Sunrise Neighborhood Association

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on December 15, 2015. Planning has not received any communications in support or opposition to the rezoning request.

CASE HISTORY

Ordinance 4225, approved by City Council on June 26, 1969 rezoned the property from R-4 (Residential) to A-2 (Apartments) and imposed conditions through Special Contract No. 96267. The special contract required a Detailed Site Plan to be approved by the City Plan Commission, limited the height of the (then) proposed apartments to one-story, and limited the use of a previously existing structure to uses other than apartments (Attachment #5).

APPLICATION DESCRIPTION

The applicant is requesting to release all three conditions imposed on the subject property by special contract, dated June 23, 1969, (see Attachment #5, pg. 8). The conditions imposed by the special contract are either current code requirements, are no longer applicable, have been satisfied or no longer applicable

to any proposed or expected development. This case is related to rezoning application (PZRZ15-00038).

Planning and Inspections Department – Planning Division Recommendation

The Planning Division recommends **approval** of releasing the special contract conditions, as the conditions are either current code requirements, are no longer necessary, have been satisfied or no longer applicable to any proposed or expected development.

Plan El Paso-Future Land Use Map Designation

All applications for a condition release shall demonstrate compliance with the following criteria:

G-3 – Post War: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

The purpose of the S-D (Special Development) district is to provide mixed-use projects, integrated in design, in certain older residential areas where there is a desire to permit a variety of nonresidential uses while maintaining the established residential appearance and landscaping of the area. Designed to ensure compatibility with existing uses in the district; to permit the production, exhibit or sale of goods and the providing of services to the public in such older residential areas; to protect the traffic capacity of streets serving such older residential areas; to encourage flexibility by prescribing general performance standards for such older residential areas; and to protect the environment of adjacent areas. Older areas of the city shall be deemed those areas where development has existed for at least twenty-five years.

COMMENTS:

Planning and Inspections Department - Land Development

No objection.

Planning and Inspections Department – Plan Review

No objections to proposed condition release.

Planning and Inspections Department - Landscaping

No objections to proposed condition release.

El Paso Fire Department

Recommend approval.

El Paso Water Utilities

1. EPWU does not object to this request.

Water

2. There is an existing 6-inch diameter water main that extends along Hercules Ave., located approximately 30.5 feet north of the right of way centerline. This main is available for service.
3. There is an existing 6-inch diameter water main that extends along Mercury St. , located approximately 12.5-feet east of the right-of-way centerline. This main is available for service.
4. EPWU records indicate a vacant 3/4-inch water meter serving the subject property. The service address for these meters is 4040 Hercules Ave.

Sanitary Sewer

5. There is an existing 8-inch diameter sanitary sewer main that extends along Hercules Ave., located approximately 5 feet south of right of way centerline. This main is available for service.

General

6. EPWU requires a new service application for additional serve the subject property. New service applications are available at 1154 Hawkins, 3rd Floor. The following items, if applicable, are required at the time of application: (1) hard copy of site plan; (2) finalized set of improvement plans, including storm sewer; (3) digital copy of site plan; (4) benchmark check; and (5) construction schedule. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The owner is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

El Paso Water Utilities - Stormwater Division

No objections.

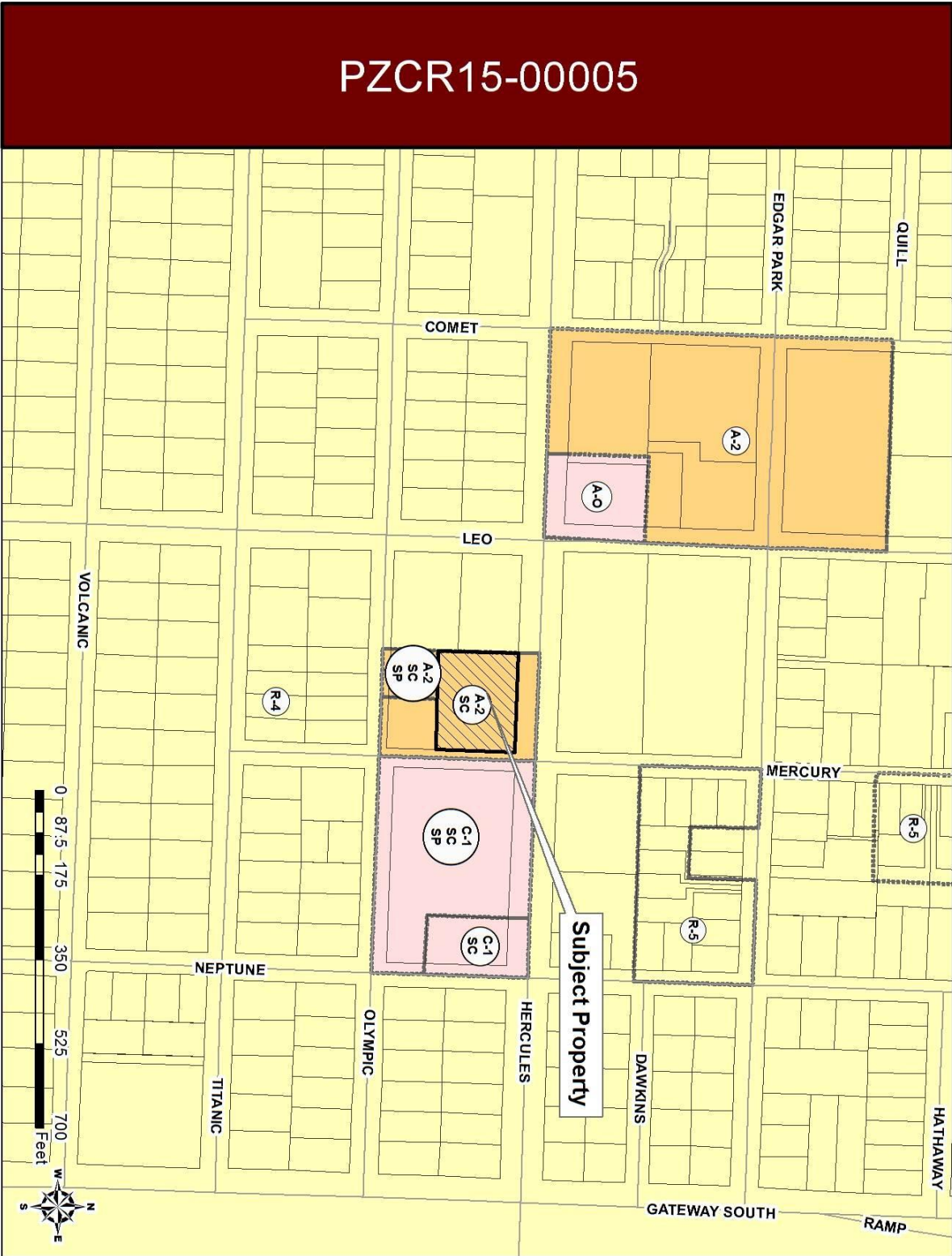
Sun Metro

Sun Metro does not oppose this request. Sun Metro has a bus stop (250 ft) Head west on subject site.

Attachments

1. Zoning Map
2. Aerial Map
3. Detailed Site Development Plan
4. Ordinance 4225
5. Special Contract dated June 23, 1969

ATTACHMENT 1: LOCATION MAP

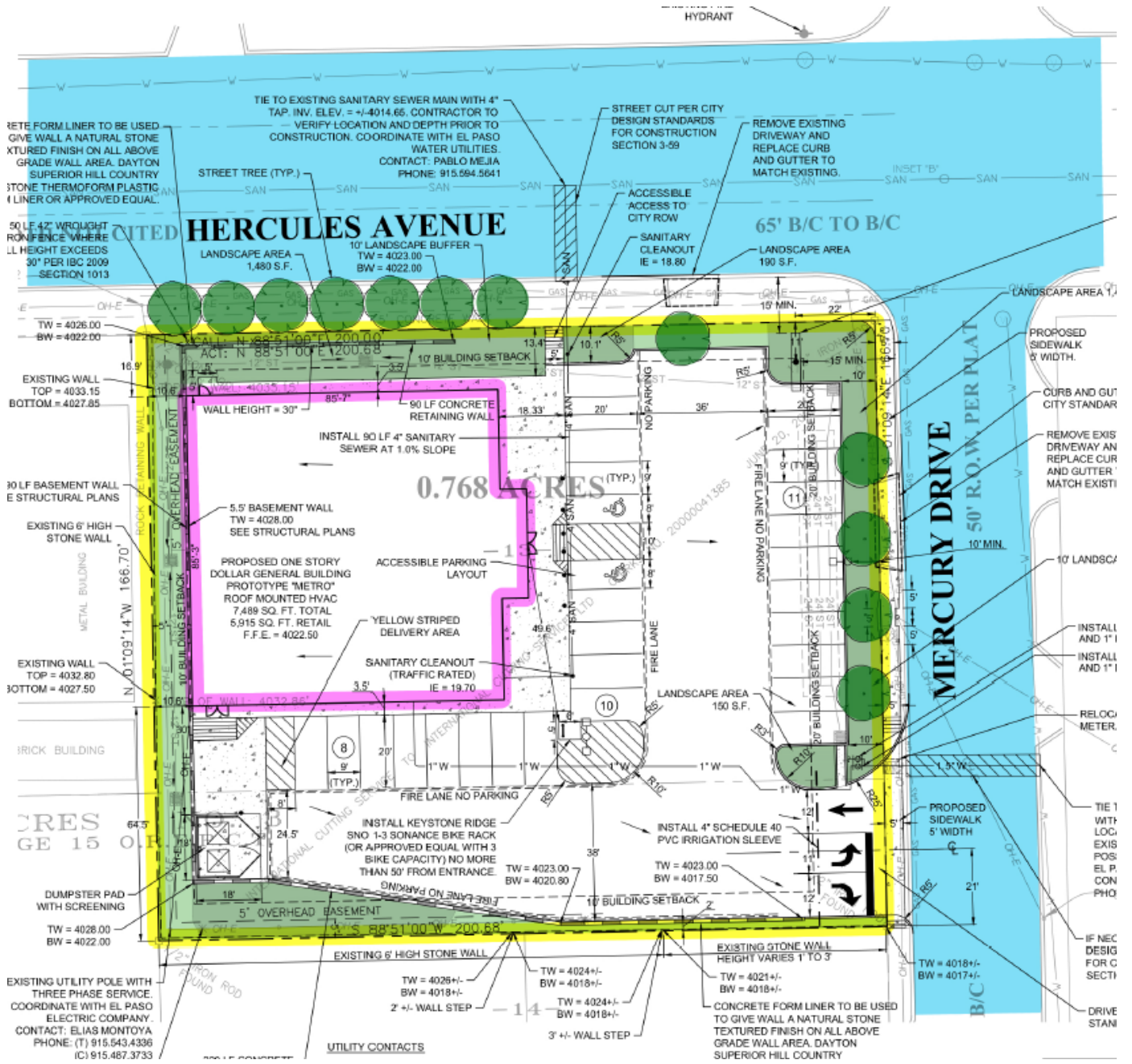


ATTACHMENT 2: AERIAL MAP

PZCR15-00005



ATTACHMENT 3: DETAILED SITE DEVELOPMENT PLAN



ATTACHMENT 4: ORDINANCE 4225

FIRST READING
Date 6/19/69
City Clerk [Signature]
ADOPTED
Date 6/26/69
City Clerk [Signature]

OK ^{1st} ~~2nd~~ ~~3rd~~

4225

AN ORDINANCE CHANGING THE ZONING
OF TRACTS 13 AND 14, SUNRISE ACRES
#3, THE PENALTY BEING AS PROVIDED
IN SECTION 25-10 OF THE EL PASO CITY
CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of Tracts 13 and 14, Sunrise Acres #3, be changed
to A-2 within the meaning of the Zoning Ordinance, and the zoning map of
the City be revised accordingly.

PASSED AND APPROVED this 26 day of June,
1969.

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

4225

259

96267

CONTRACT

This contract, made this RD23 day of June, 1969,
by and between Martin W. Ferguson and wife, Rosa E. Ferguson, Albert
W. Gutierrez and wife, Edlinda R. Gutierrez, and Oran W. Fraser and
wife, Estelle C. Fraser, First Parties, and the City of El Paso, Second
Party, witnesseth:

Application has been made to the City of El Paso for rezoning of
Tracts 13 and 14 in Sunrise Acres #3, an addition in the City of El Paso,
El Paso County, Texas.

In order to remove certain objections to such rezoning, First Par-
ties covenant that if the property is rezoned to A-2 within the meaning of
the Zoning Ordinance, said property will be subject to the following restric-
tions:

- (1) No building permits will be issued for construction on the
property until complete and detailed site development plans have been sub-
mitted to and approved by the City Plan Commission of the City of El Paso.
- (2) The apartments to be located on said property will not exceed
one story in height. The term "story" is used in this contract as defined
in Sec. 25-1 of the El Paso City Code.
- (3) The building now located on the property, as shown on the pro-
posed plot plan which is attached hereto, marked Exhibit "A" and made a
part hereof, shall never be used for apartment purposes.

This agreement is a restriction, condition and covenant running
with the land and a charge and servitude thereon, and shall bind First Par-
ties and their successors in title. Any future conveyance of the land shall
contain this restriction, condition and covenant and shall embody this agree-
ment by express reference.

The City may enforce this agreement by injunction or any other
legal or equitable remedy. The City Council of the City of El Paso may release

ATTACHMENT 5: ORDINANCE 96267 (CONTINUED)

the above restrictions, conditions and covenants in its discretion without
the consent of any third person who may be benefited thereby.

Witness the following signatures and seal:

Martin W. Ferguson
Martin W. Ferguson

Rosa E. Ferguson
Rosa E. Ferguson

Albert W. Gutierrez
Albert W. Gutierrez

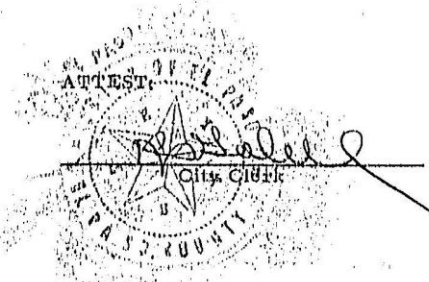
Edlinda R. Gutierrez
Edlinda R. Gutierrez

Oran W. Fraser
Oran W. Fraser

Estelle C. Fraser
Estelle C. Fraser

THE CITY OF EL PASO

by [Signature]
Mayor



THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared MARTIN W. FERGUSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23rd day of June, 1969.



Oliver G. Nordmark
Notary Public in and for El Paso
County, Texas.

255 2175

ATTACHMENT 5: ORDINANCE 96267 (CONTINUED)

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared ROSA E. FERGUSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23rd day of June, 1969.

Oliver B. Nordmarken
Notary Public in and for El Paso
County, Texas.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared ALBERT W. GUTIERREZ, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23rd day of June, 1969.

Oliver B. Nordmarken
Notary Public in and for El Paso
County, Texas.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared EDLINDA R. GUTIERREZ, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23rd day of June, 1969.

Oliver B. Nordmarken
Notary Public in and for El Paso
County, Texas.

ATTACHMENT 5: ORDINANCE 96267 (CONTINUED)

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared ORAN W. FRASER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23 day of June

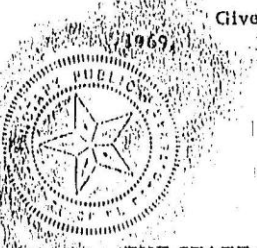


Robert R. Chese
Notary Public in and for El Paso
County, Texas.

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared ESTELLE C. FRASER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 23 day of June



Robert R. Chese
Notary Public in and for El Paso
County, Texas.

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared PETER DE WETTER, Mayor of the City of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that he had executed the same for the purposes and consideration and in the capacity therein expressed, and as the act and deed of the City of El Paso.

Given under my hand and official seal this 26 day of June



L. Alicia Vidal
Notary Public in and for El Paso
County, Texas.

L. ALICIA VIDAL, Notary Public
in and for El Paso County, Texas
My commission expires June 1, 1971

255 2177

BELL & HOWELL SAFE

CITY OF EL PASO
DEPARTMENT OF PLANNING
PROPOSED PLOT PLAN

Name MARTIN W. FERGUSON, et al SHOW: All streets, alleys, easements, parking, loading, curb cuts, sidewalks, structure dimension.

Address 4040 Hercules

Legal Description Tracts 13 and 14

SUNRISE ACRES # 3

El Paso, Texas

Plot Plan - Drawn to standard scale

PROPOSED PLOT PLAN
Two 5-Unit, one-story
Apartments and office space

HERCULES

Owners: Martin W. Ferguson Albert W. Gutierrez

Plans submitted for construction and use permits must conform to approved plot plan as shown.

By: SIGNATURE OF OWNER Date: _____

OK HORN DRAFTING SERVICES CO. EL PASO TEXAS

Scale 1" = 20.0'

Exhibit "A"

255 2178

49296

FILED FOR RECORD
IN NY OFFICE

055-151

Contract

1969 JUL 27 4:38 PM

Lura E. Danna

Maria W. Leary married George Estel
 Albert W. Leary married Mary Estelle
 Susan W. Leary married Estelle

70

City of El Paso

STATE OF TEXAS
COUNTY OF EL PASO
I hereby certify that this instrument was filed on this
date and time stamped herein by me and was duly re-
corded in the volume and page of the land records
of El Paso County, Texas, as stamped herein by me.
JUL 07 1900



COUNTY CLERK, El Paso County, Texas

255 2179